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ABSTRACT

This document reports on a three-year demonstration day care project. The Southern Regional Education Board has responsibility for coordinating the project, providing training and assistance, and evaluating the program over the three-year period. Specifically, this report is one of a series of bulletins around a variety of topics related to day care. The point is made that the need to expand day care services nationally has focused attention on some of the problems and inconsistencies associated with application of existing day care licensing regulations. Concurrent with another study, the Southeastern Day Care Project (SDCP) has reviewed current practices in family day care licensing in the eight states of the Project. The reasons for this review include: (1) Expanding day care services need to have their standards reviewed; (2) Children need to be protected from placement in situations that present possible danger to their health, safety, and development; and (3) Numerous problems have arisen in the SDCP states when securing of family day care licenses was attempted in connection with federally funded programs. The general difficulty encountered in obtaining licensing has been a deterrent to the development of family day care and a factor in preventing residents of housing projects in the region to proceed with service. Current day care standards were reviewed to resolve some of these problems. This review has revealed that rigid provisions in licensing may impede the provision of a needed service. It is proposed that day care homes receiving government funds be registered instead of licensed. (CK)

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Southeastern Day Care Bulletin No. 4

**PROBLEMS ON LICENSING
FAMILY DAY CARE HOMES**

November, 1971

SOUTHEASTERN DAY CARE PROJECT

**Southern Regional Education Board
130 Sixth Street, N. W.
Atlanta, Georgia 30313**

INTRODUCTION

The Southeastern Day Care Project is a three-year demonstration made possible by grants from the Donner Foundation and Title IV-A of the Social Security Amendments of 1967. The program is being carried on in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. The Southern Regional Education Board has responsibility for coordinating the Project, providing training and assistance, and evaluating the program over the three-year period.

From time to time in the course of our activities, we prepare materials for use in our programs or we conduct informal studies to supplement or expand data that we are collecting. Some of these seem to be of general interest and might be helpful either to our own program or to other day care projects. Therefore, we have decided to make such information immediately available rather than wait to incorporate it in a final report.

This is one of a series of bulletins around a variety of topics related to day care.

Nancy E. Travis, Director
Southeastern Day Care Project

PROBLEMS ON LICENSING FAMILY DAY CARE HOMES

Eva C. Galambos, Ph.D.

The need to expand day care services nationally has focused attention on some of the problems and inconsistencies associated with application of existing day care licensing regulations. Indeed two thirds of the states are planning revisions of their licensing requirements. The Office of Child Development has sponsored a systematic review of the regulations to develop national recommendations not only in terms of program standards, but in codes relating to health, fire, safety, and building requirements. This review has resulted in publication of "State and Local Day Care Licensing Requirements," and "A Model Day Care Licensing Statute,"¹ which were discussed at a recent national meeting.

Concurrent with the above study, the Southeastern Day Care Project (SDCP*) has reviewed current practices in family day care licensing in the eight states of the Project. This review was undertaken for the following reasons:

1. Current bills pending in the U. S. Congress indicate an impending widespread expansion of day care services. In past years the most frequent arrangement working mothers made for their children involved day care in

¹Consulting Services Corporation, Seattle, Washington.

*The Southeastern Day Care Project includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. Further information on the Project may be obtained from the Southern Regional Education Board, 130 Sixth Street, N. W., Atlanta, Georgia 30313.

their own homes or in homes of relatives, neighbors, or nonrelatives.² Although these "family day care homes" arrangements probably were made because group facilities were often lacking, the importance of individual child care arrangements should not be overlooked. A review of standards applicable to individual child care arrangements should be part of a thorough preparation for the expansion of day care services of all types.

2. The reason for licensing and applying standards for any day care facility, including family day care, is to protect children from placement in situations that present possible danger to their health, safety, and development. By licensing procedures the state through its regulatory agencies assumes a protective role for children by assuring parents that the licensed facility meets at least minimum standards. This governmental protective role is particularly important for a service on which consumers or patrons may have difficulty in making their own determination of what is safe, healthy, or acceptable. Thus, a parent considering a day care center might have no knowledge of what practices should be followed in a kitchen serving a large group of children, or what building features contribute to safety of large numbers, or how many adults should be present in a center with 80 children. The licensing procedure, based on rules, protects the child against unsafe practices. State surveillance of family day care homes does not appear to be grounded on the same considerations. Indeed, a comparison of the number of licensed family day care homes to the number of children estimated to use family day care outside their own homes indicates the prevalence of parents making their

²Seth Low and Paul G. Spindler, Child Care Arrangements of Working Mothers in the U. S., Children's Bureau Publication No. 461-1968 (Washington, D. C., U. S. Government Printing Office, 1968) p. 71.

own placements without ascertaining licensing status. The eight states in the SDCP report a total of approximately 1600 licensed family day care homes in 1971. Yet, it is estimated that 360,000 children under six in these same states are cared for in homes other than their own.³ This ratio of one licensed to every 225 unlicensed family day care homes emphasizes the need to review the principles and practices of licensing family day care homes.

In Georgia the State Department of Family and Children Services, which has the statutory obligation to license family day care homes, has not assumed this responsibility because of lack of staff. Parents' willingness to place their children in unlicensed homes in states that license such may stem from their ignorance of the law. However, it may reflect parents' willingness to accept responsibility and to depend on their own ability to judge a family day care situation that meets their own standards for their children. Mandatory licensing of family day care homes implies that there are some parents who may not be able to make the determination of whether a family day care home is a safe and healthy place for their own children. Development of a bulky bureaucratic licensing procedure seems to be a circuitous route to protect children.

³This estimate is derived from the 1970 Census for number of women in these states; the national percent of working women; the average number of children per working woman in husband-wife and female-headed families; the percentage of children age six and under of these families; and the percentage of children under six cared for in homes other than their own. See Handbook of Women Workers, Bulletin 294, 1969, Tables 2 and 22, and "Children of Women in the Labor Force, March, 1970," Bureau of Labor Statistics, 1971, Tables 1 and 3.

The disparity between legal requirements for licensing family day care homes and the low estimated percentage of actually licensed family day care homes presents a legal fiction and demands a reexamination of the licensing provisions.

3. A third reason for a review of family day care licensing and standards is that numerous problems have arisen in the SDCP states when securing of family day care licenses was attempted in connection with federally funded programs. The problems have arisen when the same set of requirements on physical facilities were applied to family day care homes as well as to group or center care. Problems also arose when auxiliary inspections of family day care homes by local fire and health authorities used rules written for restaurants or hotels.

Examples of problems encountered in licensing family day care homes under federally funded programs occurred in Columbia, South Carolina, and in Tampa, Florida. In both instances public housing units were involved, but many of the problems were not unique to public housing units and might occur in other modest homes or apartments.

In Columbia, South Carolina, the local health department held out for six months for changes in kitchens to either make all appliances flush with the floor or to place them on casters; to install baseboard vinyl coves and vinyl junctions or other sealing to the walls of all cabinet tops or working areas; and to provide stoves with hoods for outside ventilation or carbon inside ventilation. Kitchens in most modest homes or apartments do not have such modern construction, and it is questionable whether they are really necessary for the safety of the few children whose meals or snacks would be prepared there. The required renovations in one proposed

family day care home in Columbus were estimated to cost \$350, which could well erase the total earnings of the family day care worker the initial several months of her services.

In Tampa, Florida, (Hillsborough County), the general Child Care Standards that were designed for group or center care are also applied to family day care situations.⁴ The result is unrealistic. On the one hand, they have very stringent requirements in terms of physical facilities--such as the need for a hood over the kitchen stove when meals or snacks for only a few children are being prepared. On the other hand, program requirements, such as a group care-staff ratio of one adult for each 15 children, are below generally accepted standards. The family day care home in Hillsborough County finds itself in the contradictory situation of being illegal if it takes care of two unrelated children (other than the operator's own children) without triple sinks and hoods, but being legal if it cares for 15 unrelated children, so long as the triple sinks, hoods, and other health and building standards are met.

The difficulty encountered in some areas in obtaining licensing of family day care homes has been a real deterrent to the development of family day care. In others it has been used as an excuse not to proceed on expansion of family day care services.

Family Day Care in Public Housing

The general difficulty encountered in obtaining family day care licensing has been a factor in preventing residents of housing projects

⁴In Florida, the State Department of Health and Rehabilitative Services has jurisdiction only in Dade, Duval, and Orange Counties. Local provisions govern day care facilities in all other counties.

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in the region to proceed with service. Yet, family day care provided by residents of public housing units may meet multiple needs: (1) to provide care for children in their own neighborhoods at a location convenient for working mothers and (2) to provide an opportunity for work to residents of public housing units. These residents often have had serious difficulty in locating employment. Given training and supervision by a day care program that coordinates a number of family day care homes, these residents may find a new career opportunity and simultaneously offer a quality service that is needed by their neighbors.

Attempts to promote family day care in public housing units have run into major difficulties. Some housing authorities specifically forbid the use of the premises for any business or income producing activity. Where this regulation has been removed or relaxed, the added income may make the family ineligible for public housing or may raise the rent to a level that would negate the added income.

If the occupant of the public housing unit happens to be a public assistance recipient, an additional problem may arise with respect to the welfare payments. The added income from child care may be wiped out if the welfare payment is cut.

It is one of the avowed purposes of social service programs to aid dependent families to move toward economic independence. Employment as a family day care mother may be a step toward economic independence. However, the added income from family day care service is not usually sufficient to enable a family to make the jump from being subsidized to not being subsidized at all. For instance, the increase in monthly income through day care for two children at \$12.50 each per week (or approximately \$100 per month) would not be sufficient to permit the family

day care mother to altogether forego her subsidies. If her added earnings are used as a reason to move her out of public housing, she may also lose her employment as a family day care mother. Unless policy adjustments in occupancy guidelines are made, her eviction would only promote a cycle of higher rents, possible loss of earnings in a new location where family day care is not demanded, and a return to her initial condition of economic dependence.

Possible policy adjustments with regard to public assistance might include the following: the initial costs of providing the family day care service should be subtracted from the family day care mother's earnings. The WIN principle could then be applied to the net earnings, permitting the family day care mother on public assistance to retain enough of her welfare grant to still yield a higher income than if she were not employed. This principle could be used for family day care operators in both public and private housing.

The same incentive principle could be applied to the rent on public housing units so that the resident would have an incentive to provide a service and be gainfully employed, without having the rent immediately increased to wipe out all of the new earnings. Where both income and rent subsidies apply, the incentives could be combined and be graduated until the level of new earnings is really high enough to permit elimination of these subsidies.

Review of Existing Family Day Care Standards

Various provisions and practices in the licensing of family day care homes in the SDCP states have been compared and are summarized below. It must be remembered that not all eight states have mandatory licensing.

Mississippi does not have mandatory licensing of child care arrangements with less than seven children. Under a 1971 statute, North Carolina now requires only registration and not licensing of family day care homes (unless federal funds are involved). Florida's state regulatory power applies in only three major counties. Georgia does not presently enforce its licensing law on family day care homes because of staff restrictions.⁵

The minimum number of children in family day care to which licensing applies varies from one to five children.

	Minimum No. of Children When Licensing Applies	Maximum permitted in Family Day Care Homes
Alabama	No specific provision ⁷	No provision
Georgia	3	6
Florida	1	5
Kentucky	4	6
North Carolina ⁶	No provision	5
South Carolina	1	7
Tennessee	5	7

The maximum number of children permitted varies from five to seven with the operator's own children counted in the total in each state. This provision specifies preschool children in two states and counts all the operator's children in the other states. Four states restrict the maximum number of children if infants are included:

Georgia	If three children below 30 months, additional helper required.
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⁵Except that it authorizes certain agencies like Model Cities to establish and supervise its own family day care homes.

⁶Provisions on this and other standards refer only to standards North Carolina applies in licensing family day care homes involving federal funding. These standards may be changed as new regulations are prepared in North Carolina for day care facilities.

⁷This is interpreted to apply where only one child is cared for.

North Carolina	Maximum of three under two years in Level II standards. (North Carolina has two sets of standards--I and II. Level II are "desirable" and Level I are "minimum.")
South Carolina	Maximum of two under two years "preferable."
Tennessee	If more than four under three years, an extra helper is required.

Each state requires that children in day care and the family day care mother have physical examinations. Some standards specifically add that tuberculin and serology tests are required for the operator, or that all members of the operator's family must have physicals.

Two states specifically rule out basement space to be used for child care. Two others require that all rooms must have sunlight or windows above street level. However, Kentucky prohibits use above the first floor, but permits basements if they have direct exits to the outside. North Carolina also prohibits use of a second floor.

These differences in permissible floor levels raise questions about their general applicability. Some two story homes may have narrow dark steps that might be quite dangerous. Others may involve only seven or eight wide steps that present no real problems. Similarly some basements may be sunny and desirable, while others are damp and dark.

The minimum indoor and outdoor space requirements per child in family day care are as follows:

	<u>Minimum Square Feet Per Child</u>	
	<u>Indoors</u>	<u>Outdoors</u>
Alabama	None	None
Georgia	35	100
Florida	25	40
Kentucky	35	None
North Carolina	None	100-150 in Level II
South Carolina	35 recommended	75 recommended
Tennessee	None	None

Five states require individual cots or beds for the children. One permits sharing of a double bed by siblings. Another specifies that none of the family's own beds may be used for nonrelated children. Two states do not enumerate specific requirements on napping arrangements. Georgia, for example, provides that "each child shall have a comfortable place to nap." This provision allows the licensing worker discretionary judgment.

Provisions differ on fencing of outdoor areas. Only one state's standards categorically demand fencing. The other states add "if necessary" or permit other barriers such as shrubs and permit the licensing staff discretion in the requirement on fencing.

Five states' standards or licensing law require prospective family day care homes to be inspected by the health department. However, in one of these states this inspection requirement has been waived by verbal agreement between the state health and family and children services departments. In two other states there is no mandatory requirement for health inspections. In Tennessee the new licensing procedure, established by agreement between state child welfare and health department officials, no longer calls for mandatory health department inspections, but allows the child welfare licensing staff to call upon the local health officials if they are uncertain on features in any home. A similar agreement with the state fire marshal has eliminated mandatory inspections by fire departments of family day care homes. While licensing staff in the past may have "leaned" on such local inspections, they now have the responsibility of making their own determinations of safety. Workshops were conducted by both health and fire safety experts to acquaint licensing workers with pertinent details.

In Alabama, where health inspections are not mandatory, the licensing staff also may call upon health inspectors if they feel the need for advice or support.

In most states where health department inspections are mandatory, several problems may arise:

1. Where the inspections are waived, there is a contradiction between written provisions and practice. This may never present a problem unless personnel making the agreement change or an aggrieved individual presses a law suit.
2. The health inspections may involve criteria that are not applicable to home situations, especially if the health inspector uses the food service permit criteria generally applied in restaurants.
3. Even where there is state level agreement to use health standard criteria specifically developed for family day care homes, local inspectors sometime make their own interpretations and apply more stringent restrictions or rigid rules than might be envisioned by state level agreements. This is especially true if health departments have strong local autonomy. However, the danger of varying local interpretations exists even where state direction governs local health departments.

The laws or regulations of three states call for mandatory inspection by fire or building safety officials. Some of the same problems enumerated in regard to health inspections apply in this area. Variations in local requirements, varying interpretations depending on local inspectors, and application of criteria that may not be applicable to situations involving four to five children as contrasted to 30 - 80 may prevent licensing of family day care homes.

Zoning and Fees

It is interesting that one state has recently removed a statement from its family day care standards requiring adherence to local zoning ordinances. This was removed because it previously put the state licensing staff in the position of having to enforce local zoning ordinances prohibiting family day care in residential areas which the local officials had largely ignored.

The existence of zoning regulations that prevent family day care in residential neighborhoods varies from city to city. In Atlanta, Georgia, such restrictions have been waived. In Miami, Florida, local zoning codes restrict family day care in residential areas. In Columbia, South Carolina, zoning approval for family day care in public housing units had to be specifically provided by the local zoning officials.

Of the six SDCP states with mandatory licensing of family day care homes (including Georgia's unenforced law) only three levy an annual license fee, ranging from \$2 in Tennessee to \$15 in Kentucky (\$10 for renewals). The payments authorized by departments of children and family services for family day care of their clients are generally low. In the SDCP states these payments vary from a low of \$8 to a "high" of \$12.50 per week per child. The state that pays \$8, authorizes only \$7.50 for the second child in a family. The levy of a license fee for family day care homes appears burdensome in view of the low earnings the service produces.

Federal Interagency Day Care Requirements

Federal Interagency Day Care Requirements (FDCR) must be met where day care service is federally funded. If the federal requirements differ from the state standards, it is possible that two neighboring family day

care homes might have to meet different criteria, either because existing state and federal standards differ, or because there are no state standards applicable to that home where there is no federal funding.

The FDCR have been under revision for many months. Until revisions are complete and official, the 1968 FDCR must be interpreted to be controlling.

On adult-child ratios, the FDCR are more restrictive than two SDCP states, but comparable to the remaining states. The FDCR ratio of one adult to six children ages three through fourteen, or five children from infancy through age six (with no more than two under two years) is similar to provisions in Georgia, Florida, Kentucky, and North Carolina.

The FDCR permit licensing staff to exercise more judgment than state standards on the adequacy of physical facilities (space, fencing, floor level, etc.). For example, instead of specifically requiring individual cots, the FDCR call for "safe and comfortable arrangements for naps of young children."

The FDCR complement the usual state standards in requiring that day care facilities (including homes) meet sanitation and safety codes. If local codes do not exist or are not being implemented for child care facilities, the operating agency is to "work with appropriate safety and sanitation authorities to secure technical advice which will enable them to provide adequate safeguards."

Discussion

The review of existing family day care standards in the SDCP states and discussions with state personnel involved in licensing such homes reveal that rigid provisions may impede the provision of a needed service. It is almost impossible to write a set of rigid provisions that will fit

all home situations. For example, the necessity for fencing varies from locale to locale depending on traffic, other barriers, etc. The need for a telephone depends on how far the next one might be. The second floor may be safe in one home and not in another. A playroom in one basement level may be desirable, and yet below-ground space in another situation may be impossible. Even the child-adult ratio may vary depending on the age and temperament of the caregiver.

Even where family day care standards written by departments of children and family services permit sufficient flexibility and judgment by their own licensing staff, major difficulties in licensing still occur where local health, sanitary, building code, or fire inspectors rigidly apply standards that do not relate to family day care situations.

Dependence on health and safety inspections by officials in these fields has often stymied service, especially if local regulations are more rigid than state standards that may have been developed by child welfare workers in conjunction with health and safety state level personnel. Recent emphasis in two states on placing the health and safety responsibility on the licensing staff with assistance, when needed, by health and fire departments may point the direction for other states that have experienced problems with health, fire, and building safety inspections.

Registration Versus Licensing

A more drastic change to promote wider implementation of family day care services financed by government funds involves moving toward registration of family day care homes, instead of licensing.

From the viewpoint of licensing workers, the recent enactment in North Carolina of mandatory day care licensing for group facilities but

only registration of family day care homes may seem unsatisfactory. However, in the context of the reality of the situation in other states where most family day care has remained unlicensed even when mandatory, the registration procedure might offer a welcome new direction. If family day care operators are encouraged to register (which might even offer them some of the benefits of a clearing house) without subjecting them to the fear of being rejected because their homes do not meet "standards," perhaps a new opportunity to enrich family day care programs will be opened. Registration could be combined with offers of consultation and technical assistance by child welfare staff to enrich home child care instead of driving family day care underground.

It is in the nature of licensing laws on any service that the standards required for licensing describe minimum rather than higher criteria. If standards are set above minimum levels, too many prospective licensees are eliminated, so that there is always the pressure to establish them at a fairly low level. Once these minimum rules are stated in black and white, they tend to become the rule rather than a minimum.

Minimum requirements for the licensing of services describes the inputs that produce a service. Such inputs are usually staffing patterns, staff educational levels, physical settings, and materials to be used. These requirements do not describe the desired quality of the output. Where there is a proven relationship between given inputs and resulting quality levels of output, then the definition of standards in terms of inputs is justifiable. However, in the social sciences the relationship between inputs and outputs sometimes rests on conventional judgment unsubstantiated by proof. The current controversy on accountability in

education illustrates concern on educational outputs as opposed to the traditional preoccupation with certificates and standards. This emphasis may have implications for day care services too, and may be important in the determination of providing family day care services through registration, and contrasted to licensing.

As mentioned earlier, the SDCP analysis of family day care licensing provisions was undertaken independently of the OCD sponsored study, "State and Local Day Care Licensing Requirements." That study contains several recommendations parallel to the conclusions in the present review. For example, the study recommends that "Performance standards which allow for alternatives in meeting requirements should be used where possible in both state and local regulations to allow the greatest flexibility to licensing workers and inspectors in evaluating a day care facility for licensing."⁸ This emphasizes the point that performance of results regarding children and families constitutes a more important evaluation criterion than delineation of inputs. Also the study recommends, "The 'registration' of family day care homes should be studied to determine whether this would speed the supply of day care facilities without loss of concern or protection for the child in day care."⁹

Family day care homes that are part of a larger day care program present a greater opportunity for program enrichment than isolated family day care homes depending completely on the resources of the individual operator. In the SDCP, for example, family day care homes in three states

⁸Consulting Services Corporation, Seattle, Washington, 1971, p. 6.

⁹Ibid.

are part of a larger day care program, with center personnel exchanging ideas, equipment, and training with the family day care operators.

If registration of family day care homes were accompanied by arranging these homes into neighborhood groups that would receive support and enrichment from a coordinating day care program, it might be possible to improve day care service. At the same time the limitations of licensing and the underground movement of family day care might be avoided.

Regardless of the outcome of pending federal funding for day care services, there is a clearly indicated need for more day care than can be provided through existing centers. Family day care is an alternative that has many advantages. It needs to be included in the planning of alternatives for parents making choices on day care for their children.

The revision of licensing procedures is a necessary precedent to the expansion of family day care that has support of and recognition by governmental authorities concerned with day care.